

2785 E. Desert Inn Road, Suite 180 Las Vegas, Nevada 89121 (702) 486-4120

STATE OF NEVADA DEPARTMENT OF BUSINESS AND INDUSTRY FINANCIAL INSTITUTIONS DIVISION

1755 East Plumb Lane, Suite 243 Reno, Nevada 89502 (775) 688-1730

IN THE MATTER OF:	
On Call Cash, LLC	

ADMINISTRATIVE COMPLAINT FOR DISCIPLINARY ACTION AND APPEAL RIGHTS

ADMINISTRATIVE COMPLAINT FOR DISCIPLINARY ACTION

GEORGE E. BURNS, Commissioner of the NEVADA FINANCIAL INSTITUTIONS DIVISION of the DEPARTMENT OF BUSINESS AND INDUSTRY, STATE OF NEVADA (hereinafter "Division"), complaint for disciplinary action against ON CALL CASH, LLC, (hereinafter "Licensee") as follows:

JURISDICTION

- 1. Pursuant to Nevada Revised Statutes (NRS) Chapter 604A, the Division has the statutory and regulatory authority over the business practices, licensing, examinations, and disciplinary action related to deferred deposit lending, high-interest lending, title lending, and check cashing services in Nevada.
- 2. The Licensee is now, and was at all pertinent times alleged herein, licensed in Nevada by the Division to provide deferred deposit loan, high interest loan, and check cashing services pursuant to NRS Chapter 604A.
- 3. As the holder of a Chapter 604A license, the Licensee, is subject to the provisions of NRS Chapter 604A and Nevada Administrative Code (NAC) Chapter 604A.

4. The Division files this Complaint pursuant to NRS 604A.820 based upon the matters asserted herein and seeks the relief set forth below.

FACTUAL ALLEGATIONS

GENERAL FACTS

- 5. The Licensee is incorporated as a domestic corporation under the laws of Nevada and its resident agent is Michael Sorrillo, located at 467 E. Silverado Ranch Blvd. Suite 110, Las Vegas, Nevada 89183.
- **6.** The Licensee is licensed by the Division to conduct the business of lending at three (3) locations in Nevada and the corporate office is located at 467 E. Silverado Ranch Blvd. Suite 110, Las Vegas, Nevada 89183.
- 7. The Division received the complaint from Customer A on March 21, 2016. On April 16, 2016, the Division submitted a copy of the complaint, reference complaint number 70643, to the licensee's place of business with an allegation of extending a title loan to Customer A using a boat (non-land transportation vehicle) as collateral.
- **8.** On April 21, 2016, the Licensee submitted a response to the complaint via email attaching documents for a title loan to a Customer A entered on October 6, 2015 under loan number ending 8800 using collateral stated in the certificate of title as Year 2002, Make EXTR, Model Boat, Vehicle Body 4W, Owner Customer A.
- **9.** The transaction is a violation of NRS 604A.125 which expressly excludes non-land transportation vehicles as security for a title loan under NRS 604A.435.
- 10. The licensee was aware that the loan was being secured by a non-land transportation vehicle because the vehicle was evaluated prior to the loan and listed the security in the loan contract as "Eliminator" and listed "BOAT" as the model. The licensee was also cited in its 2013 examination for violation of NRS 604A.125 by extending a title loan using boat as collateral.

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- 11. The licensee repossessed the "BOAT" listed in the title loan contract.
- 12. The Commissioner has reasonable cause to believe that the Licensee is knowingly and willfully violating or is threatening to or intends to violate provisions of NRS Chapter 604A and NAC Chapter 604A.

CONCLUSIONS OF LAW

13. NRS 604A.125 reads as follows:

NRS 604A.125 "Vehicle" defined.

- 1. "Vehicle" means any vehicle, whether or not self-propelled, that is designed or intended for land transportation if the legal owner of the vehicle is required to have a title.
 - 2. The term includes, without limitation:
 - (a) Passenger vehicles;
 - (b) Recreational vehicles; and
 - (c) House trailers and travel trailers.
 - 3. The term does not include:
 - (a) Farm vehicles;
 - (b) Vehicles of a common or contract carrier;
 - (c) Commercial vehicles;
 - (d) Construction vehicles;
 - (e) Military vehicles;
 - (f) Vehicles used exclusively upon stationary rails or tracks; or
- (g) Any other vehicles which are similar in nature to the vehicles listed in paragraphs (a) to (f), inclusive, and which the Commissioner, by regulation, excludes from the definition of "vehicle."
- 14. NRS 604A.435 defines prohibited acts by a licensee:

NRS 604A.435 Prohibited acts by licensee: Accepting certain collateral or other types of security; failing to make certain disclosures; taking incomplete instruments; requiring the purchase of insurance or other goods or services; failing to comply with payment plan; charging fee to cash certain checks. A licensee shall not:

- 1. Accept:
- (a) Collateral as security for a loan, except that a title to a vehicle may be accepted as security for a title loan.
- (b) An assignment of wages, salary, commissions or other compensation for services, whether earned or to be earned, as security for a loan.
 - (c) A check as security for a high-interest loan or title loan.

(d) More than one check or written authorization for an electronic transfer of money for each deferred deposit loan.

(e) A check or written authorization for an electronic transfer of money for any deferred deposit loan in an amount which exceeds the total of payments set forth in the disclosure statement required by the Truth in Lending Act and

Regulation Z that is provided to the customer.

2. Take any note or promise to pay which does not disclose the date and amount of the loan, amount financed, annual percentage rate, finance charge, total of payments, payment schedule and a description and the amount of every fee charged, regardless of the name given to the fee and regardless of whether the fee is required to be included in the finance charge under the Truth in Lending Act and Regulation Z.

3. Take any instrument, including a check or written authorization for an electronic transfer of money, in which blanks are left to be filled in after the loan

is made.

4. Make any transaction contingent on the purchase of insurance or any other goods or services or sell any insurance to the customer with the loan.

5. Fail to comply with a payment plan which is negotiated and agreed to by

the licensee and customer.

- 6. Charge any fee to cash a check representing the proceeds of a loan made by the licensee or any agent, affiliate or subsidiary of the licensee.
- . NRS 604A.810 provides the Division has the authority to impose a Cease and Desist order:

NRS 604A Order to desist and refrain; action to enjoin violation; appointment of receiver.

- 1. Whenever the Commissioner has reasonable cause to believe that any person is violating or is threatening to or intends to violate any provision of this Chapter, he may, in addition to all actions provided for in this Chapter and without prejudice thereto, enter an order requiring the person to desist or to refrain from such violation.
- 2. The Attorney General or the Commissioner may bring an action to enjoin a person from engaging in or continuing a violation or from doing any act or acts in furtherance thereof. In any such action, an order or judgment may be entered awarding a preliminary or final injunction as may be deemed proper.
- 3. In addition to all other means provided by law for the enforcement of a restraining order or injunction, the court in which an action is brought may impound, and appoint a receiver for, the property and business of the defendant, including books, papers, documents and records pertaining thereto, or so much thereof as the court may deem reasonably necessary to prevent violations of this Chapter through or by means of the use of property and business. A receiver, when appointed and qualified, has such powers and duties as to custody, collection, administration, winding up and liquidation of

such property and business as may from time to time be conferred upon him by the court.

15. The Division has the authority to impose an administrative fine against any person engaged in NRS 604A activity as part of a disciplinary action:

NRS 604A.820 Procedure for taking disciplinary action; authorized disciplinary action; grounds.

- 1. If the Commissioner has reason to believe that grounds for revocation or suspension of a license exist, the Commissioner shall give 20 days' written notice to the licensee stating the contemplated action and, in general, the grounds therefor and set a date for a hearing.
 - 2. At the conclusion of a hearing, the Commissioner shall:
- (a) Enter a written order either dismissing the charges, revoking the license or suspending the license for a period of not more than 60 days, which period must include any prior temporary suspension. The Commissioner shall send a copy of the order to the licensee by registered or certified mail.
- (b) Impose upon the licensee an administrative fine of not more than \$10,000 for each violation by the licensee of any provision of this chapter or any regulation adopted pursuant thereto.
- (c) If a fine is imposed pursuant to this section, enter such order as is necessary to recover the costs of the proceeding, including investigative costs and attorney's fees of the Commissioner.
 - 3. The grounds for revocation or suspension of a license are that:
 - (a) The licensee has failed to pay the annual license fee;
- (b) The licensee, either knowingly or without any exercise of due care to prevent it, has violated any provision of this chapter or any lawful regulation adopted pursuant thereto;
- (c) The licensee has failed to pay a tax as required pursuant to the provisions of chapter 363A of NRS;
- (d) Any fact or condition exists which would have justified the Commissioner in denying the licensee's original application for a license pursuant to the provisions of this chapter; or
 - (e) The licensee:
- (1) Failed to open an office for the conduct of the business authorized by his or her license within 180 days after the date the license was issued; or
- (2) Has failed to remain open for the conduct of the business for a period of 180 days without good cause therefor.
- 4. Any revocation or suspension applies only to the license granted to a person for the particular office for which grounds for revocation or suspension exist.
- 5. An order suspending or revoking a license becomes effective 5 days after being entered unless the order specifies otherwise or a stay is granted.

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16. NRS 604A states the following remedies for certain willful violations:

NRS 604A.900 Remedies for certain willful violations.

1. Except as otherwise provided in this section, if a licensee willfully:

(a) Enters into a loan agreement for an amount of interest or any other charge or fee that violates the provisions of this Chapter or any regulation adopted pursuant thereto;

(b) Demands, collects or receives an amount of interest or any other charge or fee that violates the provisions of this Chapter or any regulation adopted pursuant thereto; or

(c) Commits any other act or omission that violates the provisions of this Chapter or any regulation adopted pursuant thereto,

(d) the loan is void and the licensee is not entitled to collect, receive or retain any principal, interest or other charges or fees with respect to the loan.

2. The provisions of this section do not apply if:

(a) A licensee shows by a preponderance of the evidence that the violation was not intentional and resulted from a bona fide error of computation, notwithstanding the maintenance of procedures reasonably adapted to avoid that error; and

(b) Within 60 days after discovering the error, the licensee notifies the customer of the error and makes whatever adjustments in the account are necessary to correct the error.

RELIEF SOUGHT

- 17. Based upon the allegations contained herein which constitute sufficient cause for disciplinary action against the licensee pursuant to the provisions of NRS Chapter 604A and NAC Chapter 604A, the Commissioner prays for relief as follows:
- A. That the Licensee be fined a monetary sum pursuant to the parameters defined at NRS 604A.820(2);
- B. That action be taken against the Licensee's license pursuant to the parameters defined at NRS604A.820(2);
- C. That the Licensee pay the costs of the proceeding, including investigative costs, attorney's fees pursuant to the parameters defined at NRS 604A.820(2);
- D. That the Licensee be ordered to desist and refrain from violating NRS 604A.125;
- E. That the Licensee's willful violations result in a finding that the loans are VOID pursuant to NRS 604A.900; and
- F. For such other and further relief as the Administrative Law Judge may deem just and proper.

RESPONSE

THEREFORE, the Licensee is directed to answer in writing the Administrative Complaint for Disciplinary Action within ten (10) calendar days from service and to serve the same upon the undersigned Commissioner of the NEVADA FINANCIAL INSTITUTIONS DIVISION.

DATED this 2014 day of May, 2016.

STATE OF NEVADA

DEPARTMENT OF BUSINESS AND INDUSTRY
FINANCIAL INSTITUTIONS DIVISION

By:

GEORGE E. BURNS Commissioner

1	APPEAL RIGHTS				
2	RESPONDENT HAS THE RIGHT TO REQUEST A HEARING IN THIS MATTER. If				
3	you wish to request a hearing you must file a request within thirty (30) days after this				
5	Administrative Complaint was served on the Respondent. Your request for a hearing must be				
6	delivered to:				
7					
8	STATE OF NEVADA DEPARTMENT OF BUSINESS AND INDUSTRY FINANCIAL INSTITUTIONS DIVISION				
9	2785 E Desert Inn Road Suite 180				
10	LAS VEGAS, NEVADA 89121				
11					
12	Other important rights you have are listed in Nevada Revised Statutes Chapters 604A				
13 14	and 233B and the Nevada Administrative Code Chapter 604A.				
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16	DATED this 204 day of May, 2016.				
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18	STATE OF NEVADA DEPARTMENT OF BUSINESS				
19	AND INDUSTRY FINANCIAL INSTITUTIONS DIVISION				
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21	By:				
22	GEORGE E. BURNS Commissioner				
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CERTIFICATE OF SERVICE

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I certify that I am an employee of the State of Nevada, Office of the Attorney General, and that on 20th day of May, 2016, I deposited in the U.S. mail, postage prepaid, via First Class Mail and Certified Return Receipt Requested, a true and correct copy of the foregoing **ADMINISTRATIVE COMPLAINT FOR DISCIPLINARY ACTION AND NOTICE OF HEARING**, addressed as follows:

ON CALL CASH, LLC Attn: Michael Sorrillo, Resident Agent 467 E Silverado Ranch Blvd. Suite 110 Las Vegas, NV 89183

Certified Mail: 7012 1010 0000 1168 5393

DATED this 20th day of May, 2016

ву: